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Childhood at the Margins: A Normative Analysis of Children's Status as Right Holders

With the Convention on the Rights of the Child (CRC) as its starting point, the project critically assesses the philosophical literature on children's rights, examining the normative principles that should ground the status of children as right holders. The standard position in the philosophical literature defends a differential-rights regime for children, prioritising their protection from harm, even if it conflicts with their interest in autonomy and freedom. This project questions the generalised validity of this position, exploring whether a radical shift in the normative conceptualisation of children's status as right holders is needed in order to do justice to their claims. Through a comprehensive study of the academic literature, the General Comments and court rulings on three core principles of the CRC (non-discrimination, evolving capacities and basic interests), the project re-evaluates the normative conclusions taken from them in the philosophical literature. The state of affairs in international children's rights law, and a committed study of childhood in its diverse forms highlight three fundamental flaws in the way the philosophical literature on children's rights has interpreted the CRC: (1) it is potentially discriminatory of the child population; (2) it is regressive in its interpretation of the CRC; and (3) it is inattentive to the diverse realities of the lives of children. These three issues demand a revised answer to three fundamental normative questions: (1) how should the principle of non-discrimination apply to children vis à vis adults? (2) how should children's evolving capacities be accounted for when assessing their autonomy rights? And (3) how should 'the best interests' principle be implemented, considering childhood diversity? Separately, each addresses a gap in the philosophical literature on children's rights; together, they provide a structure for re-evaluating children's status as right holders. The project diverges provocatively from the philosophical standard by questioning long-held assumptions of childhood as a group that must necessarily be differentiated. It does so by including in its study the situation of children in liminal childhoods: namely, child workers and street children. By showing the incompatibility between standard understandings of childhood, and the actual lives, capacities and limitations of liminal children, the project aims to provide a more comprehensive framework for determining children's status as right holders. It, thus, explores whether a controversial shift is required: from a priority of protectionism to one of self-determination as the normative grounding principle for the status of children as right holders.